IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos 8492 & 8455 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SATTARBHAI IBRAHIMBHAI AGARIYA

Versus

STATE OF GUJARAT

Appearance:

MR PRASHANT G DESAI for Petitioners

MR KT DAVE, Ld. AGP for Respondents

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/09/2000

COMMON ORAL JUDGEMENT

Rule. Mr.K.T.Dave, learned AGP, waives service of rule.

2. By the order dated 2-8-2000 this Court has

already directed the respondents to process the petitioners' applications in light of the principles laid down by the Hon'ble Supreme Court in the judgement in the case of State of Gujarat Vs. Kaushikbhai K. Patel (Civil Appeal No.198/99) at Annexure "K" to Special Civil Application No.8492/2000.

The learned Counsel for the petitioners makes a grievance that the aforesaid order has not been complied with.

3. Mr.K.T.Dave, Ld.AGP, on behalf of the respondents, submits that the authorities are prepared to consider the petitioners' N.T. forms and to process the same in light of the statutory provisions as they stand today.

4. Having heard the learned counsel for the parties, it appears that there is considerable substance in the aforesaid grievance of the petitioners that the petitioners' applications have not been processed in light of the principles laid down by the Hon'ble Supreme Court in the above case after interpreting the provisions of the Constitution and that the said binding decision of the Apex Court cannot be set at naught, by making a reference to some statutory provisions which do not appear to have incorporated the principles laid down by the Hon'ble Supreme Court upon interpretation of the relevant Constitutional provisions.

5. In view of the above, the respondents are directed to consider the N.T. forms submitted by the petitioners by deciding the question whether the vehicles in question were actually used on road or not during the relevant period, without considering as to whether the non-user was for reasons beyond the control of the owners of the vehicles. This direction shall be complied with within one month from today. A copy of this order shall be given to Mr.K.T. Dave, Ld. AGP.

6. Till the aforesaid decision is taken, the respondents shall not act upon the impugned notices which are challenged in these petitions and such notices shall be treated as kept in abeyance. After considering the petitioners' NT forms, it will be open to the respondents to pass appropriate orders in accordance with the directions issued contained in this judgement.

Rule is made absolute to the aforesaid extent with no order as to costs.

11-9-2000 (M.S. Shah, J.)

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